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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,425	11/01/2000	Kevin J. Nicholls	WA23-040	4626

21567 7590 02/13/2006
WELLS ST. JOHN P.S.
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SPOKANE, WA 99201

EXAMINER

DIXON, THOMAS A

ART UNIT PAPER NUMBER

3639

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/704,425

Applicant(s)

NICHOLLS ET AL.

Examiner

Thomas A. Dixon

Art Unit

3639

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-12 and 14-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-12 and 14-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The finality of the previous Office action is hereby withdrawn, Applicant's submission after final filed on 5/27/05 has been entered.
2. A careful review of the claims necessitated the rejections below.
3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, it is unclear if the "utility rate information" of line 22 is the same as the "variable utility rate information of line 19. Claim 5 refers to "utility rate information which relates to the plurality of utility providers" which is also unclear. Claim 6, refers to "the utility rate information" which is also unclear. Claim 9 further refers to "the utility rate information" which is unclear. Claim 10 refers to "the appropriate utility rate" which lacks antecedent basis and further is unclear as to what "appropriate" means.

In claim 14, it is unclear if the "utility user" of the claim is the same as the "customer" of claims 15, 16, 19, and 20. In claims 19 and 20, the phrase "most advantageous" is unclear, especially as it is related to customer perceptions.

In claim 21, it is unclear if the “utility user” of the claim is the same as the “customer” of claims 22-24, further, the “affirmatively selecting...schedules” appears to indicate multiple schedules selected, while the final sentence appears to indicate one schedule.

In claim 27, the claim alternates between the terms “utility user” and “customer” and further introduces “the agent of the utility user” which lacks antecedent basis, all of which makes it unclear who is involved in the method. In claims 28 and 32 the terms “utility user” and “customer” are used, which is confusing.

In claim 33, the claim alternates between the terms “utility user” and “customer” which makes it unclear who is involved in the method. In claim 35 the term “customer” is used, which is confusing.

Prior Art Made of Record

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

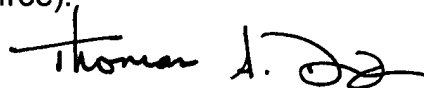
Washington Gas provides a service which tracks customer's historical utility usage, periodically performs an audit of usage, and revises the amount due, but does not disclose accumulating variable rate information from a plurality of providers or compensating parties involved in the determining of the advantageous rates based on the savings.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (571) 272-6803. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas A. Dixon
Primary Examiner
Art Unit 3639

February 06